

REMARKS

Applicant notes with appreciation the detailed comments that the Examiner made in the Office Action. The present claim amendments are responsive to the Examiner's concerns noted in the Office Action.

Claim Amendments

Claim 1 is amended to incorporate the limitations cited in claim 2 and therefore claim 2 is cancelled. Claims 3-5 are amended to be dependent on claim 1.

Claims 1 and 3-23 remain pending in this application.

102(b) Rejection based on US 2002/0018159

The Office Action indicates that claims 1, 8, 9, 14 and 19-23 stand rejected under 35 USC 102(b) as being anticipated by US 2002/0018159 (US '159). This rejection is respectfully traversed.

Claim 1 has been amended to include the limitation of claim 2. Since claim 2 has not been rejected based on US '159 alone, the 102(b) rejection has been traversed.

All the remaining claims dependent from claim 1 are likewise not anticipated by US '159 for the same reasons.

102(b) Rejection based on US 6,501,521

The Office Action indicates that claims 1, 8, 9, 14 and 19-23 stand rejected under 35 U.S.C 102(b) as being anticipated by US 6,501,521 (US'521).

Claim 1 has been amended to include the limitation of claim 2. Since claim 2 has not been rejected based on US '521 alone, the 102(b) rejection has been traversed.

All the remaining claims dependent from claim 1 are likewise not anticipated by US '159 for the same reasons.

103(a) Rejection based on US '521 and JP 9-230124

The Office Action indicates that claims 1-23 stand rejected under 35 U.S.C 103(a) as being anticipated by US 6,501,521 (US '521) in view of JP 9-230124 (JP '124).

The examiner states that US '521 discloses utilizing a flattening film for flattening the surface irregularities of the color filter. However, the examiner acknowledges that US '521 does not disclose planarizing colored portions with respect to filled opening portions.

However, the examiner indicates that JP '124 discloses a process for making a color filter comprising the steps of patterning adjacent color filter so as to overlap with each other on a light shielding layer and planarizing the overlap parts by polishing. Therefore, the examiner asserts that it would be obvious to one skilled in the art to planarize the color filters by polishing, as taught by JP '124, in the method of US '521 because it is taught that polishing provides for a planar color filter without the need for the additional process steps required to form an overcoating. Applicant respectfully disagrees.

JP '124 does not make up for the deficiencies of US '521. Applicant notes that JP '124 fails to teach color portions being planarized with respect to the filled opening portions. The planarization of the color filter surface in JP '124 is in a completely different context. As clearly shown in Figs. 2 and 3 of JP '124, the overlapping color filter portion 3A is planarized with respect to adjacent color filter portions 3B and 3R/3G. The planarization of the overlapping

color filter portion 3A provides an overall flat surface across the various color filter portions 3R, 3G and 3B, which is completely different from planarizing the color portions with respect to filled opening portions, as required by the present invention. Consequently, even if JP '124 can somehow be combined with US '521 in the manner suggested only by the Examiner, the combination does not result in the present invention. It would be necessary to make modifications, not taught by the combination, in order to combine the references in the manner suggested by the Examiner.

Further, there is no incentive or motivation to combined US '521 and JP '124 in the first place, hence such combination would not have been obvious to a person skilled in the art. It is clear that the cited references do not contain any suggestion (express or implied) that they can and should be combined, and in any specific manner to obtain the claimed invention. The references take mutually exclusive paths and reach different solutions to different problems faced by each reference.

Specifically, US '521 discloses the use of a transparent flattening film to flatten the surface irregularities caused by holes in the color filter, by filling such holes. It is not concerned with overlapping color filter portions. Planarization, even if introduced, would not have removed the surface irregularities caused by holes present in the color filter portions. US '521 certainly does not want to remove the holes by planarizing the color filter, which would otherwise remove the color filter portions as well! US '521 instead specifically chose to leave the holes in the color filter layer, but fill the holes to some extent using the transparent flattening layer. By application of the flattening layer, the resultant surface is deemed to be acceptable to US '521, without requiring any further surface treatment.

JP '124 instead discloses the planarization of overlapping color filter portions. It is not concerned with surface irregularities caused by holes in the color filter.

Consequently, each cited reference is complete and functional in itself, so there would be no reason to use steps, parts or structures from, or add or substitute steps, parts or structures to another reference. They effectively teach away (expressly or by implication) from the combination suggested by the Examiner. The combination of the references is only possible with impermissible hindsight reconstruction, given the disclosure of the present invention.


Accordingly, there is therefore no suggestion found anywhere why, if and how US '521 can and should be modified by JP '124. Independent claim 1 and all the claims dependent therefrom are therefore patentable over US ' 521 in view of JP '124.

CONCLUSION

In view of all the foregoing, Applicant submits that the claims pending in this application are patentable over the references of record and are in condition for allowance. Such action at an early date is earnestly solicited. **The Examiner is invited to call the undersigned representative to discuss any outstanding issues that may not have been adequately addressed in this response.**

Respectfully submitted,

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